



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68878; File No. SR-EDGX-2013-07)

February 8, 2013

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 31, 2013, EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members³ of the Exchange pursuant to EDGX Rule 15.1(a) and (c). All of the changes described herein are applicable to EDGX Members. The text of the proposed rule change is available on the Exchange's Internet website at www.directedge.com, at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ As defined in Exchange Rule 1.5(n).

it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently assesses a charge of \$0.0003 per share for Members' orders that yield Flag RY. The Exchange proposes to increase the rate it charges for Flag RY from \$0.0003 per share to \$0.0005 per share for Members' orders that route to the BATS Y-Exchange, Inc. ("BATS BYX") and add liquidity. This proposed change represents a pass through of the rate that Direct Edge ECN LLC (d/b/a DE Route) ("DE Route"), the Exchange's affiliated routing broker dealer, is charged for routing orders to BATS BYX that do not qualify for additional volume tiered discounts, as described in BATS BYX's fee filing with the Securities and Exchange Commission.⁴

The Exchange proposes to add Flag RT to its fee schedule for Members' orders that route to away trading centers using the ROUT routing strategy⁵ and remove liquidity from the away exchange. The Exchange proposes to assess a fee of \$0.0030 per share for orders yielding Flag RT.

The Exchange proposes to add Flag RX to its fee schedule for Members' orders that route to away trading centers using the ROUX routing strategy⁶ and remove liquidity from the away

⁴ See Securities Exchange Act Release No. 68665 (January 16, 2013), 78 FR 4946 (January 23, 2013) (SR-BYX-2013-001).

⁵ As defined in Exchange Rule 11.9(b)(3)(c)(ii).

⁶ As defined in Exchange Rule 11.9(b)(3)(c)(iii).

exchange. The Exchange proposes to assess a fee of \$0.0030 per share for orders yielding Flag RX.

The Exchange proposes to implement these amendments to its fee schedule on February 1, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁷ in general, and furthers the objectives of Section 6(b)(4),⁸ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange's proposed fee increase for Flag RY represents a pass-through rate where BATS BYX charges DE Route \$0.0005 per share for Members' orders that route to BATS BYX through DE Route and add liquidity, and then DE Route charges the Exchange \$0.0005 per share, and then the Exchange charges its Members \$0.0005 per share. The Exchange's proposal represents an equitable allocation of reasonable dues, fees, and other charges among Members of the Exchange and other persons using its facilities because the Exchange does not levy additional fees or offer additional rebates for orders that it routes to BATS BYX through DE Route. Prior to BATS BYX's January 2013 fee filing, BATS BYX charged DE Route a fee of \$0.0003 per share for orders yielding Flag RY, which DE Route passed through to the Exchange and the Exchange passed through to its Members. In BATS BYX's January 2013 fee filing, BATS BYX increased the rate it charges its customers, such as DE Route, from \$0.0003 per share to a charge of \$0.0005 per share for orders that are routed to BATS BYX and add liquidity. Therefore, the Exchange believes that the proposed change in Flag RY from a fee of \$0.0003 per share to a fee

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(4).

of \$0.0005 per share is equitable and reasonable because it accounts for the pricing changes on BATS BYX. In addition, the proposal allows the Exchange to continue to charge its Members a pass-through rate for orders that are routed to BATS BYX and add liquidity using DE Route. The Exchange notes that routing through DE Route is voluntary. Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to assess a charge of \$0.0030 per share for orders that yield Flag RT represents an equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. By electing the ROUT routing strategy, Members' orders check the System for available shares and then are sent to destinations on the System routing table,⁹ and any unexecuted shares are posted to EDGX, unless otherwise instructed. The Exchange believes that the proposed rate of \$0.0030 per share for orders that yield Flag RT is equitable because it is comparable to the Exchange's default rate of \$0.0029 per share that it charges Members for routing to away trading destinations and removing liquidity from the away exchange and also accounts for the increased costs associated with the ROUT routing strategy routing to all displayed markets including more costly destinations such as NYSE Arca, Inc. ("NYSE Arca") and The NASDAQ Stock Market LLC ("NASDAQ"). In addition, the Exchange believes that the proposed rate of \$0.0030 per share for orders that yield Flag RT is reasonable because it is comparable to the fees charged by other exchanges for similar routing strategies. Namely, BATS Exchange, Inc. ("BATS BZX") charges its customers a rate of \$0.0029 per share for orders using its Parallel D or Parallel 2D routing strategies;¹⁰ and

⁹ As defined in Exchange Rule 11.9(b)(3).

¹⁰ See BATS BZX Fee Schedule, http://cdn.batstrading.com/resources/regulation/rule_book/BZX_Fee_Schedule.pdf. See

NASDAQ charges its customers a rate of \$0.0030 per share for orders using its SCAN and STGY routing strategies.¹¹ Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange believes that its proposal to assess a charge of \$0.0030 per share for orders that yield Flag RX represents an equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. By electing the ROUX routing strategy, Members' orders check the System for available shares and then are sent to destinations on the System routing table, and any unexecuted shares are posted to EDGX, unless otherwise instructed. The Exchange believes that the proposed rate of \$0.0030 per share for orders that yield Flag RX is equitable because it is comparable to the Exchange's default rate of \$0.0029 per share that it charges Members for routing to away trading destinations and removing liquidity from the away exchange and also accounts for the increased costs associated with the ROUX routing strategy routing to all displayed markets including more costly destinations such as NYSE Arca and NASDAQ. In addition, the Exchange believes that the proposed rate of \$0.0030 per share for orders that yield Flag RX is reasonable because it is comparable to the fees charged by other exchanges for similar routing strategies. Namely, BATS BZX charges its customers a rate of \$0.0029 per share for orders using its Parallel D or Parallel 2D routing strategies; and

also BATS BZX Rules 11.13(a)(3)(B) and (C) (describing Parallel D and Parallel 2D as routing options under which an order checks the BATS's system for available shares and then is sent to destinations on the BATS's system routing table and the BATS's system may route to multiple destinations at a single price level simultaneously through Parallel D or Parallel 2D routing). Rules of BATS Exchange, Inc., http://cdn.batstrading.com/resources/regulation/rule_book/BATS_Exchange_Rulebook.pdf.

¹¹ See NASDAQ, Price List – Trading & Connectivity, <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#route>. See also NASDAQ, Routing Strategies and Order Types Guide, http://www.nasdaqtrader.com/content/ProductsServices/Trading/Workstation/rash_strategy.pdf (describing SCAN and STGY routing strategies).

NASDAQ charges its customers a rate of \$0.0030 per share for orders using its SKIP and SKNY routing strategies.¹² Lastly, the Exchange also believes that the proposed amendment is non-discriminatory because it applies uniformly to all Members.

The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members. The Exchange believes the fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors.

Regarding Flag RY, the Exchange believes its proposal to assess a charge of \$0.0005 per share increases competition among trading centers because it offers customers an alternative means to route to BATS BYX and add liquidity for the same price as entering orders on BATS BYX directly. The Exchange believes that its proposal will have no burden on intramarket competition because the rate applies uniformly to all Members.

¹² See NASDAQ, Routing Strategies and Order Types Guide, http://www.nasdaqtrader.com/content/ProductsServices/Trading/Workstation/rash_strategy.pdf (describing SKIP and SKNY routing strategies).

Regarding Flag RT, the Exchange believes that its proposal to assess a fee of \$0.0030 per share for Members' orders that route using the ROUT routing strategy and remove liquidity from the away exchange will increase competition because it is comparable to the rates charged by BATS BZX and NASDAQ for similar routing strategies. The Exchange believes that its proposal will have no burden on intramarket competition because the rate applies uniformly to all Members. The Exchange believes that its proposal will increase competition for routing services because the market for order execution is competitive and the Exchange's proposal provides customers with another alternative to route their orders. The Exchange notes that routing through DE Route is voluntary.

Regarding Flag RX, the Exchange believes that its proposal to assess a fee of \$0.0030 per share for Members' orders that route using the ROUX routing strategy and remove liquidity from the away exchange will increase competition because it is comparable to the rates charged by BATS BZX and NASDAQ for similar routing strategies. The Exchange believes that its proposal will have no burden on intramarket competition because the rate applies uniformly to all Members. The Exchange believes that its proposal will increase competition for routing services because the market for order execution is competitive and the Exchange's proposal provides customers with another alternative to route their orders. The Exchange notes that routing through DE Route is voluntary.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(2)¹⁴ thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-EDGX-2013-07 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-EDGX-2013-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 19b-4(f)(2)[sic].

proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EDGX-2013-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Kevin M. O'Neill
Deputy Secretary

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¹⁵ 17 CFR 200.30-3(a)(12).